

§ 134.36

the imported article, will be within the principle of the decision in the case of *United States v. Gibson-Thomsen Co., Inc.*, 27 C.C.P.A. 267 (C.A.D. 98). Under this principle, the manufacturer or processor in the United States who converts or combines the imported article into the different article will be considered the “ultimate purchaser” of the imported article within the contemplation of section 304(a), Tariff Act of 1930, as amended (19 U.S.C. 1304(a)), and the article shall be excepted from marking. The outermost containers of the imported articles shall be marked in accord with this part.

(b) *Goods of a NAFTA country.* A good of a NAFTA country which is to be processed in the United States in a manner that would result in the good becoming a good of the United States under the NAFTA Marking Rules is excepted from marking. Unless the good is processed by the importer or on its behalf, the outermost container of the good shall be marked in accord with this part.

[T.D. 72-262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 94-1, 58 FR 69472, Dec. 30, 1993]

§ 134.36 Inapplicability of marking exception for articles processed by importer.

An article which is to be processed in the United States by the importer or for his account shall not be considered to be within the specifications of section 304(a)(3)(G), of the Tariff Act of 1930, as amended (19 U.S.C. 1304(a)(3)(G)), if there is a reasonable method of marking which will not be obliterated, destroyed, or permanently concealed by such processing.

[T.D. 72-262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 97-72, 62 FR 44214, Aug. 20, 1997]

Subpart E—Method and Location of Marking Imported Articles

§ 134.41 Methods and manner of marking.

(a) *Suggested methods of marking.* Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), requires that the marking of the country of origin be legible, indelible, and permanent. Definite methods of marking are prescribed

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only for articles provided for in § 134.43 and for articles which are the objects of special rulings by the Commissioner of Customs. As a general rule, marking requirements are best met by marking worked into the article at the time of manufacture. For example, it is suggested that the country of origin on metal articles be die sunk, molded in or etched; on earthenware or chinaware be glazed on in the process of firing; and on paper articles be imprinted.

(b) *Degree of permanence and visibility.* The degree of permanence should be at least sufficient to insure that in any reasonably foreseeable circumstance, the marking shall remain on the article (or its container) until it reaches the ultimate purchaser unless it is deliberately removed. The marking must survive normal distribution and store handling. The ultimate purchaser in the United States must be able to find the marking easily and read it without strain.

§ 134.42 Specific method may be required.

Marking merchandise by specific methods, such as die stamping, cast-in-the-mold lettering, etching, or engraving, or cloth labels may be required by the Commissioner of Customs in accordance with section 304(a), Tariff Act of 1930, as amended (19 U.S.C. 1304(a)). Notices of such rulings shall be published in the FEDERAL REGISTER and the Customs Bulletin.

§ 134.43 Methods of marking specific articles.

(a) *Marking previously required by certain provisions of the Tariff Act of 1930.* Except for goods of a NAFTA country, articles of a class or kind listed below shall be marked legibly and conspicuously by die stamping, cast-in-the-mold lettering, etching (acid or electrolytic), engraving, or by means of metal plates which bear the prescribed marking and which are securely attached to the article in a conspicuous place by welding, screws, or rivets: knives, forks, steels, cleavers, clippers, shears, scissors, safety razors, blades for safety razors, surgical instruments, dental instruments, scientific and laboratory instruments, pliers, pincers,

nippers and hinged hand tools for holding and splicing wire, vacuum containers, and parts of the above articles. Goods of a NAFTA country shall be marked by any reasonable method which is legible, conspicuous and permanent as otherwise provided in this part.

(b) *Watch, clock, and timing apparatus.* The country of origin marking requirements on watches, clocks, and timing apparatus are intensive and require special methods. (See §11.9 of this chapter and Chapter 91, Additional U.S. Note 4, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202)).

(c) *Native American-style jewelry*—(1) *Definition.* For the purpose of this provision, Native American-style jewelry is jewelry which incorporates traditional Native American design motifs, materials and/or construction and therefore looks like, and could possibly be mistaken for, jewelry made by Native Americans.

(2) *Method of marking.* Except as provided in 19 U.S.C. 1304(a)(3) and in paragraph (c)(3) of this section, Native American-style jewelry must be indelibly marked with the country of origin by cutting, die-sinking, engraving, stamping, or some other permanent method. The indelible marking must appear legibly on the clasp or in some other conspicuous location, or alternatively, on a metal or plastic tag indelibly marked with the country of origin and permanently attached to the article.

(3) *Exception.* If it is technically or commercially infeasible to mark in the manner specified in paragraph (c)(2) of this section, or in the case of a good of a NAFTA country, the article may be marked by means of a string tag or adhesive label securely affixed, or some other similar method.

(d) *Native American-style arts and crafts*—(1) *Definition.* For the purpose of this provision, Native American-style arts and crafts are arts and crafts, such as pottery, rugs, kachina dolls, baskets and beadwork, which incorporate traditional Native American design motifs, materials and/or construction and therefore look like, and could possibly be mistaken for, arts and crafts made by Native Americans.

(2) *Method of Marking.* Except as provided for in 19 U.S.C. 1304(a)(3) and §134.32 of this part, Native American-style arts and crafts must be indelibly marked with the country of origin by means of cutting, die-sinking, engraving, stamping, or some other equally permanent method. On textile articles, such as rugs, a sewn in label is considered to be an equally permanent method.

(3) *Exception.* Where it is technically or commercially infeasible to mark in the manner specified in paragraph (d)(2) of this section, or in the case of a good of a NAFTA country, the article may be marked by means of a string tag or adhesive label securely affixed, or some other similar method.

(e) *Assembled articles.* Where an article is produced as a result of an assembly operation and the country of origin of such article is determined under this chapter to be the country in which the article was finally assembled, such article may be marked, as appropriate, in a manner such as the following:

(1) Assembled in (country of final assembly);

(2) Assembled in (country of final assembly) from components of (name of country or countries of origin of all components); or

(3) Made in, or product of, (country of final assembly).

[T.D. 72-262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 89-1, 53 FR 51255, Dec. 21, 1988; T.D. 89-88, 54 FR 39524, Sept. 27, 1989; T.D. 90-75, 55 FR 38317, Sept. 18, 1990; T.D. 90-78, 55 FR 40166, Oct. 2, 1990; T.D. 94-1, 58 FR 69472, Dec. 30, 1993; T.D. 94-4, 59 FR 140, Jan. 3, 1994; T.D. 96-48, 61 FR 28980, June 6, 1996]

§ 134.44 Location and other acceptable methods of marking.

(a) *Other acceptable methods.* Except for articles described in §134.43 of this part or the subject of a ruling by the Commissioner of Customs, any method of marking at any location insuring that country of origin will conspicuously appear on the article shall be acceptable. Such marking must be legible and sufficiently permanent so that it will remain on the article (or its container when the container and not the article is required to be marked) until it reaches the ultimate purchaser unless deliberately removed.